

MATP-616US

Appln. No.: 10/047,553
Amendment Dated May 3, 2007
Reply to Office Action of February 9, 2007

Remarks/Arguments:

Claims 1 and 3-14 are pending in the above-identified application. Claim 2 is cancelled.

Claims 1-3 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Dinwiddie et al. and Kraml et al. The rejection of claim 2 is moot in view of the cancellation of claim 2. Applicant respectfully requests reconsideration of this rejection.

With regard to claim 1, neither Dinwiddie et al., Kraml et al., nor their combination disclose or suggest,

... recognizing, in the host device, the smart card as including the upgraded software **by accessing a card information structure (CIS) of the smart card and locating a tuple in the CIS** which identifies the smart card as upgraded software...(Emphasis added).

Basis for this amendment may be found in paragraphs [0015] and [0043].

Dinwiddie et al. determines whether a card is a conventional smart card or a memory card containing the software upgrade. (Col. 3, lines 2-6). Dinwiddie et al. does not disclose or suggest **accessing a card information structure (CIS) of the smart card and locating a tuple in the CIS** which identifies the smart card as upgraded software. The determination Dinwiddie et al. is done automatically when the card is in the reset state by toggling the reset signal path via an external clock signal. In the reset state, a conventional smart card is in sleep mode and does not respond to an external signal. That is, the external signal applied to the pins of a conventional smart card is ignored. Dinwiddie et al. uses a special memory card configured to monitor an external clock signal while in sleep mode. (Col. 3, lines 27-35). When the pulse from the clock signal is sent (high/low) the card is determined to be the memory card containing the software upgrade because the memory card outputs an opposite state signal (low/high). (Col. 3, lines 27-47.) Thus, the card in Dinwiddie et al. is not determined to be the card that includes upgraded software by **accessing a card information structure (CIS) of the smart card and locating a tuple in the CIS** which identifies the smart card as upgraded software. In fact, Dinwiddie et al. does not disclose reading a CIS for any reason.

In contrast, the exemplary embodiment of Applicant's invention reads a CIS to locate a tuple in the CIS which identifies the smart card as upgraded software. That is, the card includes a CIS tuple which designates the smart card 25 as a software upgrade in accordance

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with an instruction set of the data processor 22 of host device 7. (Para [0043]). Once identified as a software upgrade, the smart card 25 provides software code to the CPU channel for storage in a memory (not shown) of host device 7. Applicant's claimed features of **accessing a card information structure (CIS) of the smart card and locating a tuple in the CIS** are advantageous over the prior art because the software can be updated with any card. That is, a special memory card configured to monitor external signals is not needed. Dinwiddie et al. teaches away from using any card because of the special features required for the special memory card, such as providing an NRSS-type clock signal to the memory card causing the NRSS data port to supply the computer code update from the memory card at a high transfer rate.

Kraml et al. discloses a technique for updating the software in a remote computer (e.g., a base station, a spacecraft in space, an electronic postage meter in an office, a medical monitoring device in a patient's home, etc.) from a central control (e.g., a wireless switching center, the National Aeronautics and Space Administration's Houston Control, a postage meter facility, a medical equipment manufacturer's factory, etc.). Kraml does not disclose using a smart card of any kind. Thus, Kraml et al. does not disclose or suggest **accessing a card information structure (CIS) of the smart card and locating a tuple in the CIS** which identifies the smart card as upgraded software.

Because neither Dinwiddie et al., Kraml et al., nor their combination disclose or suggest the features of claim 1, claim 1 is not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al. and Kraml et al. Claim 3 depends from claim 1. Accordingly, claim 3 is also not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al. and Kraml et al.

Claims 4-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Dinwiddie et al., Kraml et al., Metz et al. and Kidder et al. Applicant respectfully requests reconsideration of this rejection. Dinwiddie et al. and Kraml et al. are described above. Metz et al. discloses periodically upgrading the software for upgrading the operation of terminals, particularly the operating system, of the programmable processor which controls the terminal operation. To facilitate frequent upgrades, the network will carry a cyclic broadcast of a packetized data file containing the operating system. Periodically, a terminal will capture and store the broadcast operating system. Metz et al. does not disclose or suggest **accessing a**

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card information structure (CIS) of the smart card and locating a tuple in the CIS
which identifies the smart card as upgraded software.

Kidder et al. provides a method and apparatus for facilitating hot upgrades of software components within a telecommunications network device through the use of "signatures" generated by a signature generating program. After installation of a new software release within the network device, only those software components whose signatures do not match the signatures of corresponding and currently executing software components are upgraded. Kidder et al. does not disclose or suggest **accessing a card information structure (CIS) of the smart card and locating a tuple in the CIS** which identifies the smart card as upgraded software.

Because neither Dinwiddie et al., Kraml et al., Metz et al. and Kidder et al., nor their combination disclose or suggest the features of claim 1, claim 1 is not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al. and Kraml et al., Metz et al. and Kidder et al. Claim 4 depends from claim 1. Accordingly, claim 4 is also not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al. and Kraml et al., Metz et al. and Kidder et al.

With regard to claim 5, claim 5, while not identical to claim 1, includes features similar to those set forth above with regard to claim 1. Thus, claim 5 is also not subject to rejection for the same reasons as those set forth above with regard to claim 1. Claims 6-8 depend from claim 5. Accordingly, claims 6-8 are also not subject to rejection for at least the same reasons as claim 5.

Claims 9-13 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Metz et al., International publication no. WO 00/26767 ('767) to Dinwiddie et al. and Kraml et al. The reference to Dinwiddie et al. that is used to reject claims 1-8 (described above) is issued U.S. patent no. 7,124,210 ('201 patent). The '210 patent is a national phase of the PCT '767 application that is being used to reject claims 9-13. Applicant respectfully requests reconsideration of this rejection. As described above, Metz et al., the '210 patent to Dinwiddie et al. and Kraml et al. do not disclose or suggest the features of claim 1. At page 10 of the Office Action, the Examiner asserts that International '767 application discloses a CIS of the smart card to identify the smart card as a software upgrade. The specification of the '767 application describes features that are the same or similar to the features described above in

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the '210 patent. As described above, the '210 patent does not disclose or suggest the features of claim 1. Thus, the '767 application does not disclose or suggest the features of claim 1.

Claims 9 and 13, while not identical to claim 1, includes features similar to those set forth above with regard to claim 1. Thus, claims 9 and 13 are also not subject to rejection for the same reasons as those set forth above with regard to claim 1. Claims 10-12 depend from claim 9. Accordingly, claims 10-12 are also not subject to rejection for at least the same reasons as claim 9.

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Metz et al., Dinwiddie et al., Kraml et al., and Kidder et al. As described above, neither Metz et al., Dinwiddie et al., Kraml et al., Kidder et al., nor their combination disclose or suggest the features of claim 13. Claim 14 depends from claim 13. Accordingly, claim 14 is also not subject to rejection for at least the same reasons as claim 13.

In view of the foregoing amendments and remarks, Applicants request that the Examiner reconsider and withdraw the rejection of claims 1-14.

Respectfully submitted,


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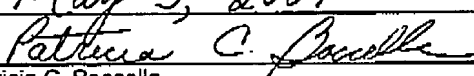
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Dated: May 3, 2007

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May 3, 2007

Patricia C. Boccella

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